# EXHIBIT 1

AFFIDAVIT

State of New York )
)Ss.
County of New York )

Steven Yagoda, being duly sworn, deposes and says:

1. I am a Group Supervisor currently assigned to the ICE SAC/NY office at 601 W26th Street, New York, New York 10001. My current grade and step is GS-14/7. I have over 28 years of federal law enforcement experience. I have been a Supervisor for approximately five years.

2. Since my testimony in the EEO case of my employee, Sunil Walia, I have been constantly harassed and retaliated against by DHS/ICE management. I did not volunteer to testify, but was told to do so as part of the EEO investigation.

3. On or about March 16, 2007, I provided testimony to an Internal Affairs investigator who was conducting an investigation into Sunil Walia's allegation of retaliation and discrimination because he had engaged in protected EEO activities.

4. On March 19, 2007, the DHS/ICE management attempted to retaliate against me for providing truthful testimony in Mr. Walia's case by attempting to involuntarily transfer out of my operational position to an administrative position at the JFK office. DHS/ICE was told that they would be violating the EEO laws if they involuntarily transferred me as a result of my testimony in Walia's EEO case. DHS/ICE management did not transfer me.

5. On July 12, 2007, I was deposed in the case of *Walia v. Chertoff* by Sunil Walia's attorney, Louis D. Stober. Also, present during the deposition was AUSA Pantoja and DHS/ICE attorney David Suna. I testified that DHS/ICE did violate EEO laws and retaliated against Mr. Walia. I also stated that I feared additional retaliation against me by ICE management, the ICE

Office of Principal Legal Advisor, and the U.S. Attorney's office because of my truthful testimony at deposition.

6. On September 30, 2007, my computerized personnel folder showed that I was reassigned to the DSAC/NY office from DSAC/JFK office. Attachment #1 I believed this transfer to be the result of retaliation by DHS/ICE management as a result of my deposition in *Walia v. Chertoff.* However, nobody officially advised me of this transfer and I continued to work at the DSAC/JFK office.

7. Since my deposition and testimony in Walia's case I have received a hateful email from another ICE JFK Supervisor Patrick Ahearne as retaliation.

8. On October 24, 2007, DHS/ICE retaliated against me, because of my deposition testimony, when I received a written reprimand from ICE management for forwarding a routine e-mail to my employees. DHS/ICE management was angry at my truthful EEO deposition testimony.

9. On November 5th, 2007, I filed an administrative grievance against ICE managers at JFK for the issuance of the written reprimand because it was issued in retaliation to my EEO and Internal Affairs related activities. The grievance was sent to Acting Special Agent in Charge Salvatore Delasandro.

10. Upon information and belief, on December 4, 2007, an ICE managers meeting took place in the office of the ICE Special Agent in Charge, located at 601 W 26th, Street, 7th Floor, NY, NY 10001. This "Tuesday morning" meeting is called the weekly ASAC meeting. The meeting consists of all the ASACs in the SAC/NY office and JFK office. The two Deputy SACs also attend it. This meeting was attended by Acting Special Agent in Charge (Deputy SAC) Salvatore D[redacted], Acting Deputy SAC JFK Mona F[redacted], ASAC Patricia S[redacted] and Marc L[redacted] (JFK), and ASACs Christopher A[redacted] Group Supervisor Marc W[redacted] (Acting ASAC), and ASAC Peter

E[redacted]

11. At this meeting a manager that was present stated that I was going to be transferred from the JFK, Jamaica, Queens, NY, office (where I was previously stationed) to the NYC (SAC/NY) in an effort to force me to retire. This statement was made openly in front of all managers present.

12. On or around December 20, 2007, I received a memorandum issued by Acting Special Agent in Charge Salvatore D[redacted] involuntarily transferring me from DSAC/JFK office to the DSAC/NY field office. No other Group Supervisors besides me were transferred to another duty station from DSAC/JFK to DSAC/NY or vice-versa.

13. I was retaliated against for my testimony and deposition in Walia's EEO case. Since, I have given sworn testimony which was adverse to ICE management and the Government's case I have been routinely and consistently retaliated against by DHS/ICE management. I have a perfect record in the prior 28 years of government service.

14. This transfer has resulted in financial harm and is harmful to my professional and personal life. My daily commute has increased by an hour and a half to two hours each day as compared to the DSAC/JFK duty station. The additional hours that I drive each week is approximately seven and a half to ten hours per week. I am not compensated for the additional drive time as a result of this transfer.

15. I have a special needs child who I work with every day. The additional time commuting to and from the New York City office takes away from that time and resulted in undue stress and anxiety for my child and myself. The time I am losing with my family specifically my special needs child cannot be compensated by money alone.

16. I never requested a transfer to the DSAC/NY office. This transfer has relegated me to a support role rather than supervising a group of agents who were working criminal cases. This change of assignment is detrimental to my career. This transfer in not career enhancing. I supervise a group of agents that support other agent's cases. This transfer has limited my abilities to supervise a group with diverse responsibilities for investigations of commercial fraud, prohibited merchandise, International Economic Powers Act, Trading with the Enemies Act, and child pornography, as I did at JFK.

17. There has never been a promotion of experienced AIRG (asset forfeiture group) agents from that group to a supervisory position. There has never been a promotion of an AIRG, Group Supervisor to an Assistant Special Agent in Charge (2nd level Division head position). Thus this transfer to this position is not career enhancing. It is a dead end assignment.

18. My expertise in asset forfeiture is stale. I have not worked asset forfeiture cases since October 2001. Since then there has been many changes in asset forfeiture case law, procedures regarding asset forfeiture in ICE, and points of contact in the law enforcement community dealing with asset forfeiture which I am unaware. There was simply no legitimate, employment related reason for this transfer.

19. I submitted a request for outside employment three years ago. That historical request regarding my personal life should have no bearing on the government's decision to transfer me from my position at JFK.

20. There exist two supervisors currently within the SAC/NY office that have prior Supervisory AIRG, asset forfeiture experience. These two supervisors are John K[redacted], and Jodi F[redacted]. There was no need to transfer me to the SAC/NY office to fill this vacancy left by the

retiring asset forfeiture Group Supervisor.

21. The AIRG Group (Asset Forfeiture Group) has been traditionally a position for newly promoted group supervisors to be placed to gain supervisory experience. Since 2001 these newly promoted supervisors were, John K[redacted], Jodi F[redacted], Alyssa E[redacted], and Joseph M[redacted].

22. ICE management has a history of transferring people from JFK to the New York City office in an effort to force them to retire. Agents recently transferred from JFK to the NYC field ~~office~~ who retired upon their transfer were Senior Special Agents Dennis Mc[redacted] Jerry S[redacted], and John J[redacted]

23. In twenty-eight years. I have never seen a document like the memo generated by Acting SAC/NY Salvatore D[redacted] dated December 20, 2007 (attached #2). ICE managers who are Acting Special Agent's in Charge not do send memos directly to first line supervisors (four levels below them) attempting to explain or justify their transfer. This document is evidence that I am being treated differently because of my EEO testimony in Sunil Walia's and in my EEO case. This is an attempt by D[redacted] to justify this retaliatory transfer due to my prior and current EEO, Internal Affairs, and whistleblower activities.

24. On January 2, 2008, ICE JFK Group Supervisor Maria I[redacted] advised me that she has a request on file to be transferred from JFK to the NYC office. That would have been the supervisor to transfer to the New York City office to fill the position in the AIRG.

STEVEN YAGODA

Sworn to before me this 31st
day of January, 2008

Notary Public

ERIC G. SILVERMAN
Notary Public - State of New York
No. 02SI6037620
Qualified in Nassau County
My Commission Expires Feb. 22, 2010